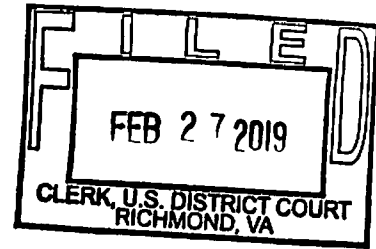


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division



RICHARD D. SIMMONS, JR.,

Plaintiff,

v.

Civil Action No. 3:18CV432

CAPT. GRANT, et al.,

Defendants.

MEMORANDUM OPINION

Richard D. Simmons, Jr., a former Virginia inmate proceeding pro se, filed this 42 U.S.C. § 1983 action. In order to state a viable claim under 42 U.S.C. § 1983, a plaintiff must allege that a person acting under color of state law deprived him or her of a constitutional right or of a right conferred by a law of the United States. See Dowe v. Total Action Against Poverty in Roanoke Valley, 145 F.3d 653, 658 (4th Cir. 1998) (citing 42 U.S.C. § 1983). In his current Complaint, Simmons does not identify the particular constitutional right that was violated by the defendants' conduct and his current allegations fail to provide each defendant with fair notice of the facts and legal basis upon which his or her liability rests. Accordingly, by Memorandum Order entered on December 6, 2018, the Court directed Simmons to submit a particularized complaint within fourteen (14) days of the date of entry thereof. The Court warned Simmons that the failure to submit the particularized complaint would result in the

dismissal of the action. By Memorandum Order entered on January 11, 2019, the Court granted Simmons a fourteen (14) day extension of time in which to file his particularized complaint.

More than fourteen (14) days have elapsed since the entry of the January 11, 2019 Memorandum Order. Simmons failed to submit a particularized complaint or otherwise respond to the December 6, 2018 or January 11, 2019 Memorandum Orders. Accordingly, the action will be dismissed without prejudice.

The Clerk is directed to send a copy of this Memorandum Opinion to Simmons.

Richmond, Virginia
Date: February 26, 2019

/s/ REP
Robert E. Payne
Senior United States District Judge